

REMARKS

Claims 1-5 are pending in the present application; all claims were rejected in the present Office Action. The Examiner rejected Claims 1-5 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 5,960,011 (Oh). In response, Claims 3 and 5 were amended to correct syntax errors.

In the Conclusion section of the present Office Action, the Examiner states that Applicants' amendment necessitated the new grounds of rejection, thereby making the present Office Action Final. This holding, however, cannot be supported. All claim amendments were made to clarify the claims and to correct minor informalities. No new matter was added, and the scope of the claims has not changed.

In the previous Amendment dated March 17, 2004, two changes were made in the subtracting step of Claims 1 and 2. The word "detected" was inserted before "minimum survival path metric value"; and the expression "detected survival path" was inserted before "metric values". These changes were intended to better illustrate that the survival path value comes from the detecting step of the claims and is distinct from a threshold value.

As with regard to Claims 3-5, in addition to changes to add the word "detected", these claims had a syntax error where the word "to" was used instead of the word "from", e.g., it is correct to say "subtracting a from b" not "subtracting a to b". Changes to Claims 3-5 involved adding the word "from".

Section 706.07(a) of MPEP titled "Final Rejection, When Proper on Second Action", states the following:

"Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p)."

It is therefore requested, based on the above, that the finality of the present Office Action be removed.

In the present Amendment, Claims 3 and 5 have again been amended in an effort to clarify this syntax error. In particular, Claims 3 and 5 now recite "subtracting, when the detected minimum competition path metric value is greater than the threshold value, a given normalization value from

the metric values, to output normalized metric values. “, no new matter has been added.

Turning now to the rejection of Claims 1-5 under 35 U.S.C. §102(e)) as being anticipated by Oh, Oh describes a Viterbi decoder that includes a maximum branch metric value detecting device separated from a feedback loop consisting of an ACS (add compare select) arithmetic unit, a normalization arithmetic unit, and a state value storing device.

The Examiner argues that Oh, in column 8, lines 15-25, anticipates the step of subtracting recited in every claim of the present application. Specifically, the present application teaches subtracting the detected minimum survival path metric value from the detected survival path metric values, as recited in Claims 1 and 2. However, on closer examination of the Oh section quoted by and relied upon by the Examiner, lines 17- 20 read as follows:

”That is, in the case where the minimum value of the survivor state values exceeds a **predetermined** threshold value, the **threshold value** is subtracted from the all the survivor stated values.” (Emphasis added.)

Contrary to the claim recitations of the present application, Oh teaches subtracting a predetermined threshold value. As stated above, the claims of the present application describe:

“subtracting, when the minimum survival path metric value exceeds the threshold value, the detected minimum survival path metric value from the detected survival path metric values, to output normalized metric values” recited in Claim 1;

“subtracters for subtracting the detected minimum survival path metric value from the detected survival path metric values” recited in Claim 2;

“subtracting, when the detected minimum competition path metric value is greater than the threshold value, a **given normalization value** from the metric values, to output normalized metric values” recited in amended Claim 3;

“subtracters for subtracting the reference metric value from the detected competition path metric values” recited in Claim 4, where the reference metric value was outputted when a minimum competition path metric value was detected to be greater than a threshold value; and

“subtracting, when the minimum survival path metric value exceeds the threshold value, the **minimum survival path metric value** from the metric values, to output normalized metric values”

recited in amended Claim 5.

Therefore, based on the above argument, it can be concluded that Oh does not teach or describe at least the subtracting step recited in Claims 1, 3 and 5 as well as the subtracter elements recited in Claims 2 and 4 of the present application. Withdrawal of the rejection under 35 U.S.C. §102(e) is thus respectfully requested. Accordingly, all of the claims pending in the Application, namely, Claims 1-5, are believed to be in condition for allowance. Allowance of these Claims is respectfully requested.

Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,



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